

## AGENDA ITEM SUMMARY

Staff Contact Person: Marlene Conaway

**AGENDA ITEM WORDING:** Public hearing to consider a request for Administrative Relief from Juan and Carlos Escar for, Lot 7, Block 8, Winston Waterways No. 2 Subdivision Key Largo, Real Estate Number 00547211.002500.

**ITEM BACKGROUND:** A building permit and ROGO allocation were applied for on April 16, 2001, (Year 9, Quarter 4). The applicant applied for Administrative Relief on January 31, 2005 (Year 13, Quarter 3) and is within the allowable time frame to be eligible for administrative relief under Section 9.5-122.2(f) of the Monroe County Code.

Staff recommends that Administrative Relief be granted in the form of a dwelling unit allocation award.

**PREVIOUS RELEVANT BOCC ACTION: N/A**

**CONTRACT/AGREEMENT CHANGES: N/A**

**STAFF RECOMMENDATIONS:** Approval.

**TOTAL COST:** N/A

**BUDGETED:** Yes N/A No

**COST TO COUNTY:** N/A

**SOURCE OF FUNDS:** N/A

REVENUE PRODUCING:	Yes	No	AMOUNT PER MONTH	Year
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**APPROVED BY:** County Atty X OMB/Purchasing N/A Risk Management N/A

**DIVISION DIRECTOR APPROVAL:**

(Timothy J. McGarry, AICP)

**DOCUMENTATION:** Included X

Not Required

**DISPOSITION:**

**AGENDA ITEM #**

**RESOLUTION NO. - 2005**

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS **APPROVING** THE REQUEST FOR ADMINISTRATIVE RELIEF MADE BY JUAN AND CARLOS ESCAR ON THE LOT DESCRIBED AS LOT 7, BLOCK 8, WINSTON WATERWAYS NO. 2 SUBDIVISION, KEY LARGO, REAL ESTATE NUMBER 00547211.002500. THE RECOMMENDED RELIEF IS IN THE FORM OF A DWELLING UNIT ALLOCATION AWARD.

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**WHEREAS**, Juan and Carlos Escar have submitted an application for a building permit allocation under the Residential Rate of Growth Ordinance (ROGO) in January of 2001; and

**WHEREAS**, the application has been in the ROGO system for at least four (4) consecutive years; and

**WHEREAS**, Juan and Carlos Escar have applied for administrative relief under Monroe County Code Section 9.5 122.2 (f); and

**WHEREAS**, the Board of County Commissioners (BOCC) has the authority to grant administrative relief under Section 9.5 122.2. (f) (6) and may grant the applicant a building allocation, offer to buy the property at fair market value, or provide such other relief as may be necessary and appropriate; and

**WHEREAS**, the lot is not identified as hammock on the 1986 habitat maps and the applicant received positive one point; and

**WHEREAS**, Board of County Commissioners Resolution 223-2004 directs staff to identify small parcels with indigenous hammock and pinelands for recommended purchase; and

**WHEREAS**, Policy 101.6.5 of the 2010 Comprehensive Plan provides criteria to be used for determining lands that are appropriate for acquisition and the criteria includes the environmental sensitivity of the vegetative habitat on the lot; and

**WHEREAS**, the subject property, located in Winston Waterways No. 2 Subdivision is not environmentally sensitive;

**WHEREAS**, the Monroe County Board of County Commissioners makes the following findings of fact and conclusions of law:

- 1) The Escar property, Lot 7, Block 8, Winston Waterways No. 2 Subdivision, ROGO application received no negative environmental points and one (1) positive environmental point; and
- 2) Policy 101.6.1 of the 2010 Comprehensive Plan and Section 9.5-122.2(f) of the Monroe County Land Development Regulations provides a mechanism whereby an applicant who

has not received an allocation award in ROGO may apply to the Board of County Commissioners for administrative relief.

- 3) The applicant has been in the ROGO system for three of the last four annual allocation periods and therefore qualifies for administrative relief; and
- 4) The property does not qualify under criteria established by Resolution 223-2004 for purchase by the Monroe County Land Authority of small parcels with indigenous hammock and pinelands; and
- 5) The property does not qualify as environmentally sensitive under criteria established by Policy 101.6.5 and Policy 101.6.6 that directs the County to prioritize acquisition based on the environmental sensitivity of the land.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:**

Administrative relief is granted to Juan and Carlos Escar for Lot 7, Block 8, Winston Waterways Subdivision, administrative relief in the form of a dwelling unit allocation award, subject to the following conditions:

1. The timing of the issuance of the permit shall be in accordance with the annual number of residential allocations defined by Policy 101.2.13 and as required by Section 9.5-122.2 (f) of the Monroe County Code; and
2. The allocation award shall be taken out of the quarterly allocation which closes July 13, 2005 (Quarter 4, Year 13) or such time as a residential allocation becomes available; and
3. The assignment of a nutrient reduction credit shall be required prior to issuance of the permit.

**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2005.

Mayor Dixie Spehar	_____
Mayor Pro Tem Charles "Sonny" McCoy	_____
Commissioner George Neugent	_____
Commissioner David Rice	_____
Commissioner Murray Nelson	_____

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

BY \_\_\_\_\_  
Mayor Dixie Spehar

(SEAL)

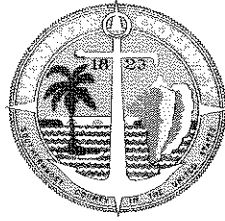
ATTEST: DANNY L. KOLHAGE, CLERK

\_\_\_\_\_  
DEPUTY CLERK



**Growth Management Division**

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Marathon, Florida 33050  
Voice: (305) 289-2500  
FAX: (305) 289-2536



**Board of County Commissioners**

Mayor Dixie Spehar, Dist. 1  
Mayor Pro Tem Charles "Sonny" McCoy, Dist. 3  
Comm. George Neugent, Dist. 2  
Comm. David P. Rice, Dist. 4  
Comm. Murray J. Nelson, Dist. 5

To: Board of County Commissioners

From: K. Marlene Conaway, Director  
Department of Planning and Environmental Resources

Date: April 26, 2005

Subject: **Juan and Carlos Escar, Administrative Relief Request**

**Background on Subject Property:**

The subject property is zoned Improved Subdivision (IS) Land Use District and is located in the Winston Waterway No. 2 Subdivision, Lot 7, Block 8, Key Largo, Real Estate Number 00547211.002500. The applicant purchased the property in December of 1999; the sale price is listed in the assessor's records as \$33,500.00. The current land value is listed in the assessor's records at \$46,125.00. The applicant entered the Residential Rate of Growth Ordinance (ROGO) system on April 16, 2001, (Year 9, Quarter 4). Permit Number 01-3-975.

**Permitting History:**

A building permit and ROGO allocation were applied for on April 16, 2001 (Year 9, Quarter 4). The application scored seventeen (17) points: ten (10) points from planning; six (6) points from building with seven (7) points for building features and minus one (-1) point for location in an AE -9 flood zone; positive one (1) point from environmental resources as the subject property was determined to be Habitat Protection Group 1, disturbed/scarified, by the Upper Keys Biologist.

Currently, with the addition of three perseverance points, the property scores twenty (20) points. At the end of the fourth quarter, Wednesday, July 13, 2005, the applicant will receive an additional perseverance point for a total of twenty-one (21) points.

The lot is in a block of four (4) undeveloped lots running east from Tamarind Rd. with the lot on either side undeveloped. The remaining lots on the south side of 3<sup>rd</sup> Lane are developed. Seven (7) of the ten (10) lots across 3<sup>rd</sup> Lane are developed with residences.

Eighteen (18) previous ROGO allocations have been granted in Winston Waterways No. 2 Subdivision with one (1) awarded in Year 1, four (4) awarded in Year two (2), one (1) awarded in Year 3, two (2) in Year 5, four (4) awarded in Year 6, one (1) awarded in Year 7, three (3) awarded in Year 8 and two (2) awarded in Year 11. These include Permit Numbers:

92-3-6962, 92-3-7683, 93-3-10923, 93-3-8904, 92-3-7682, 94-3-1691, 96-3-848, 94-3-2662, 96-3-2092, 95-3-3358, 95-3-3357, 98-3-868, 98-3-3175, 99-3-0967, 97-3-2108, 99-3-1954, 00-3-3114, 01-3-2165.

The applicant applied for administrative relief on January 31, 2005 (Year 13, Quarter 3) and is within the allowable time frame to be eligible for administrative relief under Section 9.5-122.2(f) of the Monroe County Code.

**Development Potential:**

**Zoning** – The property is zoned Improved Subdivision (IS) which allows one single-family residential dwelling and accessory uses. As an Improved Subdivision, it has no TDR value under the current code.

**Future Land Use Map (FLUM)** – The FLUM indicates the property to be Residential Medium (RM) which is intended for single-family residential use.

**Land Type** - The property was given a point assignment of one (1) for being in Habitat Group 1 which is defined in Section 9.5-122.3(7) and includes the following: Disturbed/scarified or disturbed with hammock or disturbed with exotics. This is the least environmentally sensitive category of the four described in Section 9.5-122.3(7).

**Neighboring Properties** – More than one-half of the subdivision has been built out. The lot is in a block of four (4) undeveloped lots running east from Tamarind Rd. with the lot on either side undeveloped. The remaining lots on the south side of 3<sup>rd</sup> Ln. are developed. Seven (7) of the ten (10) lots across 3<sup>rd</sup> Lane are developed with residences.

**ROGO** – The ROGO point system is designed to direct growth to protect natural resources and to encourage infill development of improved subdivision lots. In response to Objectives 101.5 of the Monroe County 2010 Comprehensive Plan, which directs the County to protect natural resources, Land Development Regulations (LDRs) have been adopted that score minus ROGO points for any lots in environmentally sensitive lands. The subject lot received no negative points under Section 9.5-122.3 of the Land Development Regulations.

**Smart Growth Initiative** – Although Monroe County is in the process of adopting a land use program which will further define areas for future development and areas in which no development may occur, Goal 105 of the Monroe County Comprehensive Plan defines three ‘tiers’ that direct where new development may occur. The tiers are defined in Policy 105.2.1.

The subject property is located in the Winston Waterway No. 2 subdivision and meets the criteria for an Infill Area (Tier III) in Goal 105. New development and redevelopment are to be highly encouraged.

**Eligibility for Administrative Relief Options:**

Section 9.5-122.2(f) of the Monroe County Land Development Regulations and Policy 101.6.1 of the 2010 Comprehensive Plan provides a mechanism whereby an applicant who has not received an allocation award in ROGO may apply to the Board of County Commissioners for administrative relief. The applicant is eligible for Administrative Relief having complied with all requirements of the dwelling unit allocation system and having been considered in at least three (3) of the last four consecutive annual allocation periods and having submitted their application for Administrative Relief no earlier than the third annual allocation period and no later than ninety (90) days following the close of the fourth annual allocation period.

**Relief Options under Administrative Relief:**

The remedies available to an applicant for Administrative relief pursuant to Section 9.5-122.2(f) include issuance of an allocation award or just compensation by purchase of the property or such other relief as may be necessary or appropriate.

The subject property does not contain sensitive environmental features or any significant habitat for endangered or threatened animal species. It therefore does not meet the criteria established under the existing Policy 101.6.6 and Policy 102.4.2, or the proposed Policy 101.6.5, of the Year 2010 Comprehensive Plan for the purchase of property under Administrative Relief.

The applicant has requested administrative relief in the form of a granting of an allocation and has not expressed a desire to sell the property to the County as provided for under Policy 101.6.1 of the Year 2010 Comprehensive Plan.

**Staff Analysis:**

The Growth Management Division has reviewed the application and recommends the award of a ROGO application to the applicant.

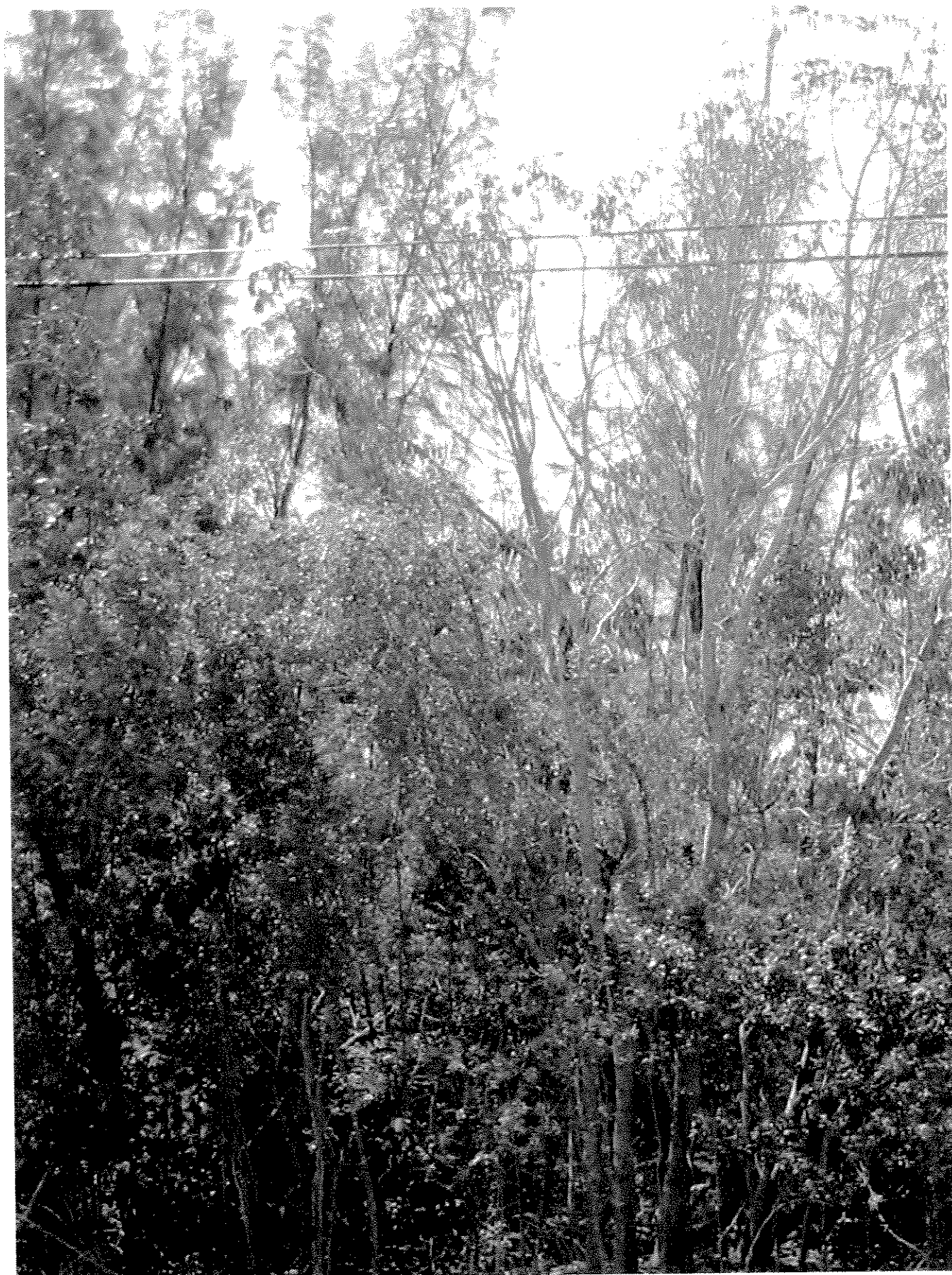
**Findings of Fact:**

- 1) The Escar property, Lot 7, Block 8, Winston Waterways No. 2 Subdivision, ROGO application received no negative environmental points and one (1) positive environmental point; and
- 2) Policy 101.6.1 of the 2010 Comprehensive Plan and Section 9.5-122.2(f) of the Monroe County Land Development Regulations provides a mechanism whereby an applicant who has not received an allocation award in ROGO may apply to the Board of County Commissioners for administrative relief.
- 3) The applicant has been in the ROGO system for three of the last four annual allocation periods and therefore qualifies for administrative relief; and
- 4) The property does not qualify under criteria established by Resolution 223-2004 for purchase by the Monroe County Land Authority of small parcels with indigenous hammock and pinelands; and
- 5) The property does not qualify as environmentally sensitive under criteria established by Policy 101.6.5 and Policy 101.6.6 that directs the County to prioritize acquisition based on the environmental sensitivity of the land.

**Recommendation:**

It is recommended that the Board of County Commissioners find that the applicant has met the criteria and qualifies for Administrative Relief. It is further recommended that an order be prepared that establishes this relief as an award of a ROGO allocation in the quarterly ROGO allocation period which closes July 13, 2005, or at such time as a ROGO allocation is available.

Cc: Timothy J. McGarry, AICP, Director of Growth Management  
Mark Rosch, Monroe County Land Authority



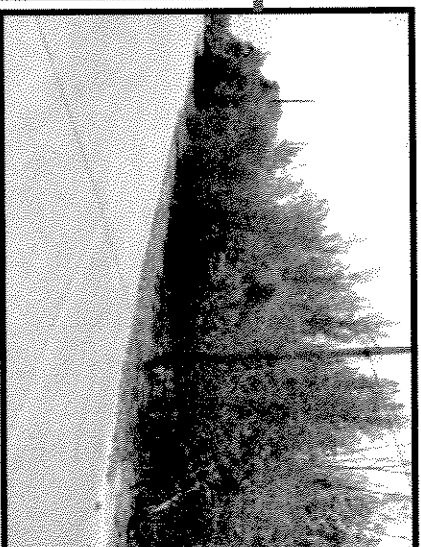




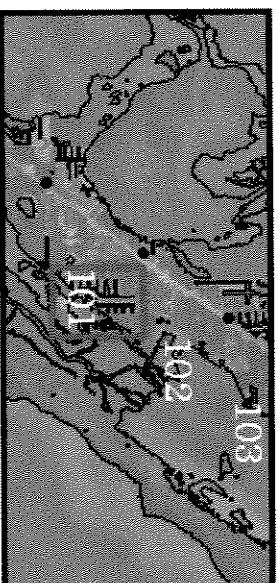




# Escar Administrative Relief: RE 00547211.002500



2003 Aerial Photos / 2005 Road-view Photos



This map is for Monroe County Growth Management Division purposes only. The data contains distances to boundaries only and may not accurately depict boundaries, parcels, roads, right of ways, or other relevant information.  
JH 2005